

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

15-CR-149-A

FRANK R. PARLATO, JR. and
CHITRA SELVARAJ,

Defendants.

NOTICE OF MOTION AND MOTION

THE UNITED STATES OF AMERICA, by and through its attorney, Trini E. Ross, United States Attorney for the Western District of New York, Michael DiGiacomo, Assistant United States Attorney, hereby moves the Court for an order adjourning the November 30, 2021, status conference for a period of three weeks and extend the time for the government to reply to defendant Parlato's supplemental response. The basis for this request is set forth in the attached declaration and is made with the knowledge and consent of all parties.

DATED Buffalo, New York, November 16, 2021.

TRINI E. ROSS
United States Attorney

BY: ***s/MICHAEL DIGIACOMO***
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DECLARATION

MICHAEL DIGIACOMO, deposes and states:

1. I am an Assistant United States Attorney for the Western District of New York and am assigned to prosecute this case. This declaration is submitted in support of the motion filed by the government's seeking the court adjourn the status conference scheduled for November, 30, 2021, for a period of three weeks and extend the time for the government to reply to defendant Parlato's supplemental response to the government's motion *in limine* seeking a ruling that certain evidence is inadmissible hearsay.

2. Following a September 7, 2021 court appearance, the Court issued a text order (Dkt. 245) directing defendant Parlato to file "a copy of the . . . statements [he] seeks to admit at trial." The Court also allowed Parlato to "supplement his previously filed response to the Government's motion to address those specific statements." *Id.* Finally, the Court allowed the government to supplement its reply by October 15, 2021. *Id.* The Court later granted the

government an extension of time—through and including November 19, 2021—to file its supplemental reply (Dkt. 252).

3. Defendant Parlato's supplemental response is 32 pages and provides a lengthy narrative that Parlato believes supports the admission of L.R.'s statements.

4. Subsequent to the court's order extending the time for the government to reply to defendant Parlato's supplemental response, the parties re-engaged in plea negotiations.

5. The parties feel it would serve the interest of justice to extend the time for government to file their reply and adjourn the status conference scheduled for November 30, 2021, as the parties will use the time to continue to engage in plea discussions.

6. Therefore, the parties are requesting the court reschedule the status conference for a day during the week of December 20, 2021, so the parties can report back to the court on the progress of their plea discussions or ask the court to enter an order scheduling a time for the government to reply to the defendant Parlato's supplemental response and schedule an oral argument date.

7. Prior to filing this motion, counsel for each defendant was contacted and each counsel consents and joins in this motion.

8. The parties agree that because pretrial motions have been filed and have not yet been taken under advisement, time is excluded from the Speedy Trial Act as a matter of law pursuant to 18 U.S.C. §3161(h)(1)(D). The parties further agree that time is also excluded from the Speedy Trial Act pursuant to 18 U.S.C. §3161(H)(7)(A) as the ends of justice will be served by taking such action and will outweigh both the public and each defendant's right to a speedy trial.

WHEREFORE, the government respectfully requests that the Court grant the government's motion and exclude the time from the Speedy Trial Act.

Respectfully submitted,

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